

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alfredo Gonzalez	Team: Squad #7	CCRB Case #: 201510704	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/07/2015 7:20 PM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 6/7/2017	EO SOL 6/7/2017	
Date/Time CV Reported Wed, 12/09/2015 8:45 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/21/2015 11:47 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Wilfredo Acevedo	6499	937938	032 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jesse Pulice	11430	957058	032 PCT
2. POM Gregory Lobianco	31307	955073	032 PCT
3. SGT Matthew Mccoy	05366	947238	032 PCT
4. SGT Mario Dileo	02120	940089	032 DET

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Wilfredo Acevedo	Force: Det. Wilfredo Acevedo used physical force against § 87(2)(b)	§ 87(2)(b)

### Case Summary

On December 7, 2015, at approximately 7:20 p.m., Det. Wilfredo Acevedo, Sgt. Mario Dileo, PO Jesse Pulice, PO Gregory Lobianco, Sgt. Matthew McCoy, and PO Willis Reyes responded to § 87(2)(b)'s residence – located at § 87(2)(b) in the Bronx – in regards an aggravated harassment allegation that was made against § 87(2)(b). The principal of § 87(2)(b)'s daughter's school alleged that § 87(2)(b) had called her and threatened to bring a gun and knife to school the following day. The officers informed § 87(2)(b) that she was being placed under arrest, after which, she exited the apartment voluntarily. Immediately after, § 87(2)(b) was placed in handcuffs, during which time, Det. Acevedo allegedly pushed her left shoulder down forcefully (**Allegation A**). As § 87(2)(b) was being escorted down the hallway, Det. Acevedo allegedly pulled her by the chain of her handcuffs towards the elevator (**within Allegation A**). In the building's lobby, § 87(2)(b) complained that her handcuffs were too tight, so Det. Acevedo allegedly threw her against a wall and proceeded to loosen them (**within Allegation A**). § 87(2)(b) was transported to the 32<sup>nd</sup> Precinct stationhouse, where she was charged with § 87(2)(b). § 87(2)(b) did not sustain any injuries as a result of her interaction with Det. Acevedo.

IAB Group 54 conducted a call-out investigation for this case; however, the IAB investigator determined that no misconduct occurred and the case's materials were forwarded to the CCRB.

There is a one-minute video, obtained by IAB and forwarded to the CCRB, which partially captures when § 87(2)(b) was placed in handcuffs; however, the video is of such poor quality (a recording of the video monitor) that is difficult to discern specific officers' actions, or whether § 87(2)(b) resisted arrest.



201510704\_20160311\_1116\_DM.mp4

### Mediation, Civil and Criminal Histories

- This case is unsuitable for mediation § 87(2)(g)
- A Notice of Claim inquiry was submitted on February 12, 2016. The results will be added to the case file upon receipt (Board Review 01).
- § 87(2)(b)

### Civilian and Officer CCRB Histories

- § 87(2)(b) has filed nine previous complaints with the CCRB § 87(2)(b)
- Det. Acevedo has been a member of the NYPD for ten years. He has been the subject of 14 previous allegations stemming from five cases. In CCRB 200707736, a retaliatory summons allegation and a discourtesy allegation were substantiated, for which he received command discipline. § 87(2)(g)

## Findings and Recommendations

### Explanation of Subject Officer Identification

- § 87(2)(b) described the officer who allegedly used force against her as a white male that was approximately 5'9" tall, with a heavy build, bald, in his 40s, and in plainclothes. § 87(2)(b) described the second plainclothes officer as being shorter and slimmer than the subject officer. Det. Acevedo and Sgt. Dileo were the only officers at the location in plainclothes. According to Det. Acevedo's NYPD photo, he is a light-skinned Hispanic male that is 6' tall, 290 pounds, and bald (Board Review 15). Sgt. Dileo's NYPD photo lists him as white male that is 5'5" tall and 155 pounds (Board Review 16). § 87(2)(g)

### Allegations not pleaded

- **Abuse of Authority:** § 87(2)(b) did not allege that she requested medical attention during her in-person statement; however, during an earlier IAB interview, § 87(2)(b) mentioned that she had asked for medical attention "generally," but had not directed her command to a specific officer (Board Review 04). In a subsequent phone call with the CCRB, § 87(2)(b) alleged that requested medical attention "generally" while at the stationhouse, but that it was not directed at a specific officer. § 87(2)(g)

### Allegation A – Force: Det. Wilfredo Acevedo used physical force against § 87(2)(b)

§ 87(2)(b) alleged that Det. Acevedo pushed down on her left shoulder when attempting to place her in handcuffs. § 87(2)(b) explained that she suffered a stroke in the past, and her left arm was her "bad arm." Afterward, when escorting § 87(2)(b) down the hall, Det. Acevedo allegedly pulled her by the handcuffs' chain towards the elevator. § 87(2)(b) denied receiving any commands prior to being pulled and she stated that she was not resisting at the time in which Det. Acevedo pulled on the chain. Before being escorted downstairs, § 87(2)(b) stated that she told § 87(2)(b) – § 87(2)(b)'s friend who was in the apartment at the time – several times not to allow the officers to enter without a search warrant. While inside the building's lobby, § 87(2)(b) complained that her handcuffs were too tight, which then prompted Det. Acevedo to allegedly throw her against a wall, causing her face to make contact with it. § 87(2)(b)'s handcuffs were then loosened. § 87(2)(b) did not sustain any injuries from Det. Acevedo's actions (Board Review 05).

§ 87(2)(b) did not observe when § 87(2)(b) exited the apartment or how she was handcuffed; however, she recalled hearing § 87(2)(b) state, "You're hurting me" after she had exited the apartment. § 87(2)(b) did not observe when § 87(2)(b) was taken downstairs, but she could hear § 87(2)(b) telling her not to allow the officers to enter and search the apartment without a warrant (Board Review 06). § 87(2)(b)'s neighbor, was in the lobby and observed § 87(2)(b) handcuffed and pushed against a wall by Det. Acevedo. § 87(2)(b) believed that Det. Acevedo was "manhandling" § 87(2)(b) and she recalled that § 87(2)(b)

§ 87(2)(b) was crying and complaining that her handcuffs were too tight. Det. Acevedo eventually loosened § 87(2)(b)'s handcuffs (Board Review 07).

Det. Acevedo had a vague recollection of his interaction with § 87(2)(b). He did not recall whether she resisted arrest, nor could he recall who placed § 87(2)(b) in handcuffs. Det. Acevedo denied ever pushing on § 87(2)(b)'s shoulder before or after she was placed in handcuffs. Det. Acevedo recalled escorting § 87(2)(b) downstairs with the assistance of PO Pulice and PO Lobianco, but he denied that he, or any other officer, pulled on § 87(2)(b)'s chain when escorting her. Det. Acevedo denied throwing § 87(2)(b) against a wall after she was handcuffed, and he did not observe any other officer do so (Board Review 08). Sgt. Dileo recalled that, after voluntarily stepping out, § 87(2)(b) was placed in handcuffs by a uniformed officer without any resistance. After being placed in handcuffs, however, § 87(2)(b) began to flail her arms while screaming to § 87(2)(b) to lock her bedroom door and to not allow the officers to enter. Sgt. Dileo denied that any force was used against § 87(2)(b) and that she calmed down after it was explained that she was going to be taken downstairs. Sgt. Dileo remained in front of the apartment and had no further interaction with § 87(2)(b) after she was escorted away. Sgt. Dileo denied that any officer pulled on the handcuffs' chain while she was being escorted downstairs (Board Review 09).

PO Pulice's testimony was fairly consistent with Det. Acevedo's. He did not recall § 87(2)(b) resisting, and he denied that § 87(2)(b) was pushed, pulled by the chain of her handcuffs, or thrown against a wall (Board Review 10). PO Lobianco, PO Pulice's partner, recalled that § 87(2)(b) initially resisted arrest by flailing her arms, but Det. Acevedo managed to place her in handcuffs simply by grabbing her arms and putting them together. After being handcuffed, § 87(2)(b) was compliant and was escorted downstairs without incident by PO Pulice (Board Review 11). Sgt. McCoy's testimony was fairly consistent with PO Lobianco's, save that he recalled § 87(2)(b) yelling at an individual inside not to allow the officers to enter her bedroom. Sgt. McCoy denied that any officer used physical force against § 87(2)(b) and he denied that she was pulled by her handcuffs' chain while being escorted downstairs. Sgt. McCoy remained in front of the apartment after § 87(2)(b) was escorted downstairs (Board Review 12).

The video footage forwarded by IAB is unclear on whether any force was used against § 87(2)(b). The video shows § 87(2)(b)'s torso moving towards the ground at one point, but it is unclear whether she is doing so because she is resisting or because Det. Acevedo pushed down on her shoulder as alleged. Immediately after, § 87(2)(b) can be seen against the wall and moving her torso, as if to look behind her towards her apartment (see video clip above, Board Review 13).

Officers may use the minimum amount of force necessary to take into custody a violent or resisting individual. NYPD Patrol Guide, Section 203-11 (Board Review 14).

§ 87(2)(g)

§ 87(2)(g) [Redacted]  
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Squad: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date